



Health Services
LOS ANGELES COUNTY

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*To ensure access to high-quality,
patient-centered, cost-effective
health care to Los Angeles
County residents through direct
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July 12, 2011

REVISED

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

#9 JULY 12, 2011

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVAL TO OFFER AND EXECUTE AN AUTOMATED
EMERGENCY NOTIFICATION SYSTEM SERVICES AGREEMENT
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

Request approval of an Agreement for the provision of access and use of Automated Emergency Notification System Services to augment the County's emergency response capabilities for five years, and to purchase other disaster preparedness supplies, at no net County cost.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve and authorize the Director of Health Services (Director), or his designee, to prepare, offer and execute an Agreement with Everbridge Aware (Everbridge), substantially similar to Exhibit I, for the provision of Automated Emergency Notification System (AENS) Services. The term of the Agreement will be effective upon Board approval through June 30, 2012, with provisions for automatic annual renewals for four consecutive one-year terms through June 30, 2016, at a maximum estimated cost of \$500,000 for AENS Services and an additional \$280,000 in one-time cost for the purchase of other disaster preparedness supplies, at no net County cost, subject to review and approval by County Counsel, with notification to your Board.

PURPOSE/JUSTIFICATION OF THE RECOMMENDED ACTION

Approval of the recommended action will authorize the Director, or his designee, to prepare, offer, and execute an Agreement with Everbridge Aware, for the provision of AENS to make it possible for the Department of Health Services (DHS), the Department of Public Health (DPH), and non-County hospitals and clinics in Los Angeles County to expeditiously assign necessary personnel during emergencies.

DHS' Emergency Medical Services (EMS) Agency works with both the private and public sectors in researching and applying for grant funding for the augmentation and improved readiness of the County's disaster preparedness, and providing an AENS to LA County, fully funded by DPH's Centers for Disease Control and Prevention (CDC) Public Health Emergency Response (PHER) grant funds, will enhance the emergency response capabilities of these organizations.

The EMS Agency is responsible for coordinating the County's emergency medical services system including hospitals, fire departments, and ambulance companies. DHS works with over 100 general acute care hospitals, 73 of which provide emergency services and serve as 9-1-1 receiving facilities, 39 paramedic provider agencies, multiple clinics and health centers, other healthcare facilities such as skilled nursing facilities, ambulance companies and the American Red Cross.

During an emergency, DHS, DPH and healthcare facilities will use the AENS to provide notification or alerts to their respective staff. The AENS will allow LA County to notify an individual, a team of people (e.g. trauma team, decontamination team, hospital command center personnel) or their entire staff depending on the incident and needs of the facilities. Additionally, the AENS will also be used for conference calls and drills and exercises.

Implementation of Strategic Plan Goal

The recommended action supports goal No. 4, Health and Mental Health, of the County's Strategic Plan.

FISCAL IMPACT/FINANCING

There is no net County cost. The allocation of DPH PHER grant funds of \$688,000 will cover the initial estimated cost for AENS Services, not to exceed \$404,000, and one-time expenditures of \$284,000 for other disaster preparedness supplies. This funding will be included in DHS' Fiscal Year (FY) 2011-12 Supplemental Budget Request.

The total estimated contract cost for the AENS of \$500,000 includes the initial cost, not to exceed \$404,000, covered by the DPH PHER grant allocation in FY 2011-12, and a maximum cost of \$96,000 (\$24,000/annually) for access fees during the four (4) one-year term options for FY 2012-13 to FY 2015-16. The access fees, offset with anticipated Hospital Preparedness Program (HPP) grant funds, will be requested in future fiscal years.

The proposed Agreement includes provisions that will allow for early termination in the event that DHS does not receive future HPP grant funding awards.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On September 8, 2009, your Board approved and accepted Los Angeles County's first apportionment of grant funds for DPH's Novel Influenza A H1N1 Preparedness Program (NIAHPP), designated for disaster preparedness program activities. Your Board also delegated authority to the Director of DPH, or his authorized designee, to accept and execute future CDC amendments to redirect these funds, subject to review and approval by County Counsel and notification to your Board.

Funding from the CDC for this purpose has continued in subsequent years for continued participation in the NIAHPP. On February 2, 2011, DPH exercised its delegated authority and accepted Federal Fiscal Year 2011 PHER grant funds from the CDC in the amount of \$13,235,386, for the period effective July 31, 2009, through July 31, 2011. This allocation included \$404,000 for DHS' AENS. Through DPH, DHS received grantor authorization for the AENS on January 11, 2011.

The CDC approved DPH's work plan for the use of the PHER funding. Included in that work plan is the transfer of PHER funds to DHS for the AENS and the purchase of personal protective equipment to enhance the preparedness and response capabilities of the health care community.

These funds will be used to improve pandemic preparedness by addressing gaps in the existing health care community plans and implementing measures to address those gaps.

A key area of responding to a pandemic involves working collaboratively with the health care community. Funding from the PHER grant was earmarked to support key activities coordinated by the EMS Agency through the HPP.

County Counsel has approved Exhibit I as to form.

CONTRACTING PROCESS

On March 9, 2011, DHS disseminated a Request for Information to 38 independent vendors identified as companies with potential ability to provide AENS Services. 11 of the 38 vendors notified DHS of their ability to provide the required services. On May 25, 2011, the Department issued an IFB to those 11 responding vendors and posted the IFB on the DHS Contracts and Grants website. The IFB bids were submitted by June 17, 2011. The Department selected the lowest cost, responsive and responsible bidder.

The Agreement includes all Board of Supervisors' required provisions.

The AENS is not a Proposition A Agreement because the service is of an extraordinary technical nature and is needed on an intermittent and as-needed basis and, therefore,

The Honorable Board of Supervisors

July 12, 2011

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the Agreement is not subject to the Living Wage Program (Los Angeles County Code Chapter 2.201).

Exhibit I has been reviewed and approved by County Counsel as to form.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of these actions will allow for the expansion and augmentation of disaster preparedness activities in Los Angeles County.

Respectfully submitted,



for Mitchell H. Katz, M.D.
Director

MHK:CC:KH

Enclosure

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors
Department of Public Health

SAMPLE AGREEMENT



AGREEMENT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

(CONTRACTOR)

FOR

AUTOMATED EMERGENCY NOTIFICATION SYSTEM SERVICES

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APPENDIX A - AGREEMENT EXHIBITS

AUTOMATED EMERGENCY NOTIFICATION SYSTEM SERVICES

TABLE OF CONTENTS OF EXHIBITS

STANDARD EXHIBITS

- A STATEMENT OF WORK (Not attached to Sample)
- B PRICING SCHEDULE (Not attached to Sample)
- C CONTRACTOR'S PROPOSED SCHEDULE (Not attached to Sample)
- D CONTRACTOR'S EEO CERTIFICATION (Not attached to Sample)
- E COUNTY'S ADMINISTRATION
- F CONTRACTOR'S ADMINISTRATION
- G CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT
- H JURY SERVICE ORDINANCE (Not attached to Sample)
- I SAFELY SURRENDERED BABY LAW (Not attached to Sample)

UNIQUE EXHIBITS

- J CHARITABLE CONTRIBUTIONS CERTIFICATION
- K TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM
- L CERTIFICATE OF COMPLIANCE WITH THE COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

**AGREEMENT BETWEEN
COUNTY OF LOS ANGELES
AND**

**FOR
AUTOMATED EMERGENCY NOTIFICATION SYSTEM SERVICES**

This Agreement and Exhibits made and entered into this ____ day of _____, 201_ by and between the County of Los Angeles, hereinafter referred to as County and _____, hereinafter referred to as Contractor. _____ is located at _____.

RECITALS

WHEREAS, the County may contract with private businesses for Automated Emergency Notification System Services when certain requirements are met; and

WHEREAS, the Contractor is a private firm specializing in providing Automated Emergency Notification System Services; and

WHEREAS, County desires a Contractor to implement the deliverables required for the provision of an Automated Emergency Notification System; and

WHEREAS, Contractor desires to participate and is qualified by reason of experience, preparation, organization, staffing, and facilities to provide the specialized services described hereunder for and in consideration of funds

provided for use by Contractor under this Agreement and upon the conditions hereinafter set forth; and

WHEREAS, pursuant to the provisions of the Public Health and Social Security Emergency Funds (Section 319 of the Public Health Services Act, 42 U.S.C.247d), the United States Department of Health and Human Services, Assistant Secretary for Preparedness and Response awards grants to the County; and

WHEREAS, grant funds will be distributed to Contractor, under the administration of County in accordance with the Hospital Preparedness Program, to support County and Contractor activities related to countering potential natural disasters, terrorism threats to civilian populations, or other public health emergencies; and

WHEREAS, this Agreement is authorized by provisions of the Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002, Public Law 107-117; and

WHEREAS, this Agreement is therefore authorized under California Code, Government Code Section 31000 which authorizes the Board of Supervisors to contract for Automated Emergency Notification System Services; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree to the following:

1.0 APPLICABLE DOCUMENTS

Exhibits A, B, C, D, E, F, G, H, I, J, K and L are attached to and form a part of this Agreement. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Agreement and the Exhibits, or

between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Agreement and then to the Exhibits according to the following priority.

Standard Exhibits:

- 1.1 EXHIBIT A - Statement of Work
- 1.2 EXHIBIT B - Pricing Schedule
- 1.3 EXHIBIT C - Contractor's Proposed Schedule
- 1.4 EXHIBIT D - Contractor's EEO Certification
- 1.5 EXHIBIT E - County's Administration
- 1.6 EXHIBIT F - Contractor's Administration
- 1.7 EXHIBIT G - Contractor Acknowledgement and Confidentiality Agreement
- 1.8 EXHIBIT H - Jury Service Ordinance
- 1.9 EXHIBIT I - Safely Surrendered Baby Law

Unique Exhibits:

SB 1262 - Nonprofit Integrity Act of 2004

- 1.10 EXHIBIT J - Charitable Contributions Certification
- 1.11 EXHIBIT K - Transitional Job Opportunities Preference Program
- 1.12 EXHIBIT L - Certificate of Compliance with the County's Defaulted Property Tax Reduction Program

This Agreement and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous Agreements, written and oral, and all communications between

the parties relating to the subject matter of this Agreement. No change to this Agreement shall be valid unless prepared pursuant to sub-paragraph 8.1 - Amendments and signed by both parties.

2.0 DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

- 2.1 Agreement:** Agreement executed between County and Contractor. It sets forth the terms and conditions for the issuance and performance of the Statement of Work, Exhibit A.
- 2.2 Contractor:** The sole proprietor, partnership, or corporation that has entered into an Agreement with the County to perform or execute the work covered by the Statement of Work.
- 2.3 Contractor Project Manager:** The individual designated by the Contractor to administer the Agreement operations after the Agreement award.
- 2.4 County Agreement Project Monitor:** Person with responsibility to oversee the day to day activities of this Agreement. Responsibility for inspections of any and all tasks, deliverables, goods, services and other work provided by the Contractor.
- 2.5 CountyProject Director:** Person designated by County with authority for County on contractual or administrative matters relating to this Agreement that cannot be resolved by the County's Project Manager.

- 2.6 CountyProject Manager:** Person designated by County's Project Director to manage the operations under this Agreement.
- 2.7 Day(s):** Calendar day(s) unless otherwise specified.
- 2.8 Fiscal Year:** The twelve (12) month period beginning July 1st and ending the following June 30th.
- 2.9 Location:** Any facility or organization that will be using the emergency notification system under this Agreement. A location can be a hospital, clinic, organization or LA County department/agency authorized by the global administrator (LA County EMS Agency).

3.0 WORK

- 3.1** Pursuant to the provisions of this Agreement, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth herein.
- 3.2** If the Contractor provides any tasks, deliverables, goods, services, or other work, other than as specified in this Agreement, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the County.

4.0 TERM OF AGREEMENT

- 4.1** The term of this Agreement shall commence on , and shall continue in full force and effect for twelve (12) months, unless sooner terminated or extended, in whole or in part, as provided in this Agreement. This Agreement shall thereafter be automatically renewed for four (4) consecutive one (1) year terms, without further action by the parties hereto.
- 4.2** The Contractor shall notify DHS when this Agreement is within six (6) months from the expiration of the term as provided for

hereinabove. Upon occurrence of this event, the Contractor shall send written notification to DHS at the address herein provided in Exhibit E - County's Administration.

5.0 AGREEMENT SUM

- 5.1 County's maximum payment obligation for Contractor services provided hereunder effective upon execution of this Agreement shall not exceed _____ in accordance with Exhibit B, Pricing Schedule, attached hereto as reference.
- 5.2 The Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the County's express prior written approval.
- 5.3 The Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred ninety percent (90%) of the total agreement authorization under this Agreement. Upon occurrence of this event, the Contractor shall send written notification to DHS at the address herein provided in Exhibit E - County's Administration.

5.4 No Payment for Services Provided Following Expiration/Termination of Agreement

The Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Contractor after the expiration or other termination of this Agreement. Should the Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Agreement shall not constitute a waiver of County's right to recover such payment from the Contractor. This provision shall survive the expiration or other termination of this Agreement.

5.5 Invoices and Payments

5.5.1 The Contractor shall invoice the County only for providing the tasks, deliverables, goods, services, and other work specified in Exhibit A - Statement of Work and elsewhere hereunder. The Contractor shall prepare invoices, which shall include the charges owed to the Contractor by the County under the terms of this Agreement. The Contractor's payments shall be as provided in Exhibit B - Pricing Schedule, and the Contractor shall be paid only for the tasks, deliverables, goods, services, and other work approved in writing by the County. If the County does not approve work in writing no payment shall be due to the Contractor for that work.

5.5.2 The Contractor's invoices shall be priced in accordance with Exhibit B - Pricing Schedule.

5.5.3 The Contractor's invoices shall contain the information set forth in Exhibit A - Statement of Work describing the tasks,

deliverables, goods, services, work hours, and facility and/or other work for which payment is claimed.

5.5.4 The Contractor shall submit annual invoices to the County by August 15th of each contract year in accordance with Exhibit B - Pricing Schedule.

5.5.5 All invoices under this Agreement shall be submitted in two (2) copies to the following address:

County of Los Angeles
Emergency Medical Services Agency
10100 Pioneer Boulevard, Suite 200
Santa Fe Springs, CA 90670
Attention: Finance Unit

5.5.6 **County Approval of Invoices.** All invoices submitted by the Contractor for payment must have the written approval of the County's Project Manager prior to any payment thereof. In no event shall the County be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld.

5.5.7 **Local Small Business Enterprises – Prompt Payment Program**

Certified Local SBEs will receive prompt payment for services they provide to County departments. Prompt payment is defined as 15 calendar days after receipt of an undisputed invoice.

6.0 ADMINISTRATION OF AGREEMENT - COUNTY

COUNTY ADMINISTRATION

A listing of all County Administration referenced in the following subparagraphs is designated in Exhibit E - County's Administration. The

County shall notify the Contractor in writing of any change in the names or addresses shown.

6.1 County's Project Director

Responsibilities of the County's Project Director include:

- ensuring that the objectives of this Agreement are met; and
- providing direction to the Contractor in the areas relating to County policy, information requirements, and procedural requirements.

6.2 County's Project Manager

The responsibilities of the County's Project Manager include:

- meeting with the Contractor's Project Manager on a regular basis; and
- inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of the Contractor.

The County's Project Manager is not authorized to make any changes in any of the terms and conditions of this Agreement and is not authorized to further obligate County in any respect whatsoever.

6.3 County's Agreement Project Monitor

The County's Project Monitor is responsible for overseeing the day-to-day administration of this Agreement. The Project Monitor reports to the County's Project Manager.

7.0 ADMINISTRATION OF AGREEMENT - CONTRACTOR

7.1 Contractor's Project Manager

7.1.1 The Contractor's Project Manager is designated in Exhibit F - Contractor's Administration. The Contractor shall notify the County in writing of any change in the name or address of the Contractor's Project Manager.

7.1.2 The Contractor's Project Manager shall be responsible for the Contractor's day-to-day activities as related to this Agreement and shall coordinate with County's Project Manager and County's Agreement Project Monitor on a regular basis.

7.1.3 The Contractor's Project Manager must have a minimum of three years of experience.

7.2 Approval of Contractor's Staff

County has the absolute right to approve or disapprove all of the Contractor's staff performing work hereunder and any proposed changes in the Contractor's staff, including, but not limited to, the Contractor's Project Manager.

7.3 Background and Security Investigations

7.3.1 Each of Contractor's staff performing services under this Agreement who is in a designated sensitive position, as determined by County in County's sole discretion, shall undergo and pass a background investigation to the satisfaction of County as a condition of beginning and continuing to perform services under this Agreement. Such background investigation may include, but shall not be

limited to, criminal conviction information obtained through fingerprints submitted to the California Department of Justice. The fees associated with the background investigation shall be at the expense of the Contractor, regardless if the member of Contractor's staff passes or fails the background investigation.

7.3.2 If a member of Contractor's staff does not pass the background investigation, County may request that the member of Contractor's staff be immediately removed from performing services under the Agreement at any time during the term of the Agreement. County will not provide to Contractor or to Contractor's staff any information obtained through the County's background investigation.

7.3.3 County, in its sole discretion, may immediately deny or terminate facility access to any member of Contractor's staff that does not pass such investigation to the satisfaction of the County or whose background or conduct is incompatible with County facility access.

7.3.4 Disqualification of any member of Contractor's staff pursuant to this Paragraph 7.3 shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Agreement.

7.4 Confidentiality

7.4.1 Contractor shall maintain the confidentiality of all records and information in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to

confidentiality, including, without limitation, County policies concerning information technology security and the protection of confidential records and information.

7.4.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with this Paragraph 7.4, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 7.4 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County without County's prior written approval.

7.4.3 Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Agreement.

7.4.4 Contractor shall sign and adhere to the provisions of the “Contractor Acknowledgement and Confidentiality Agreement”, Exhibit G1.

8.0 STANDARD TERMS AND CONDITIONS

8.1 AMENDMENTS

8.1.1 For any change which affects the scope of work, term, Agreement Sum, payments, or any term or condition included under this Agreement, an Amendment shall be prepared by the County and executed by the Contractor and by Department Head or his designee, subject to prior approval by the County’s Board of Supervisors.

8.1.2 The County’s Board of Supervisors or Chief Executive Officer or designee may require the addition and/or change of certain terms and conditions in the Agreement during the term of this Agreement. The County reserves the right to add and/or change such provisions as required by the County’s Board of Supervisors or Chief Executive Officer. To implement such changes, an Amendment to the Agreement shall be prepared by the County and executed by the Contractor and by Department Head or his designee.

8.2 ASSIGNMENT AND DELEGATION

8.2.1 The Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, County consent shall require a written

amendment to the Agreement, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under this Agreement shall be deductible, at County's sole discretion, against the claims, which the Contractor may have against the County.

8.2.2 Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Agreement, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Agreement.

8.2.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the Agreement which may result in the termination of this Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

8.3 AUTHORIZATION WARRANTY

The Contractor represents and warrants that the person executing this Agreement for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Agreement and that all requirements of the Contractor have been fulfilled to provide such actual authority.

8.4 BUDGET REDUCTIONS

In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County Agreements, the County reserves the right to reduce its payment obligation under this Agreement correspondingly for that fiscal year and any subsequent fiscal year during the term of this Agreement (including any extensions), and the services to be provided by the Contractor under this Agreement shall also be reduced correspondingly. The County's notice to the Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, the Contractor shall continue to provide all of the services set forth in this Agreement.

8.5 COMPLAINTS

The Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

8.5.1 Within five (5) business days after Agreement effective date, the Contractor shall provide the County with the Contractor's

policy for receiving, investigating and responding to user complaints.

8.5.2 The County will review the Contractor's policy and provide the Contractor with approval of said plan or with requested changes.

8.5.3 If the County requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within five (5) business days for County approval.

8.5.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the County for approval before implementation.

8.5.5 The Contractor shall preliminarily investigate all complaints and notify the County's Project Manager of the status of the investigation within three (3) business days of receiving the complaint.

8.5.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

8.5.7 Copies of all written responses shall be sent to the County's Project Manager within three (3) business days of mailing to the complainant.

8.6 COMPLIANCE WITH APPLICABLE LAW

8.6.1 In the performance of this Agreement, Contractor shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, and all provisions required thereby to be included

in this Agreement are hereby incorporated herein by reference.

8.6.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Paragraph 8.6 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

8.7 COMPLIANCE WITH CIVIL RIGHTS LAWS

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement. The Contractor shall comply with Exhibit D - Contractor's EEO Certification.

8.8 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM

8.8.1 Jury Service Program:

This Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as Exhibit H and incorporated by reference into and made a part of this Agreement.

8.8.2 Written Employee Jury Service Policy.

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the

Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this sub-paragraph, "Contractor" means a person, partnership, corporation or other entity which has an agreement with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County agreements or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any Subcontractor to perform services for the County under the Agreement, the Subcontractor shall also be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

3. If the Contractor is not required to comply with the Jury Service Program when the Agreement commences, the Contractor shall have a continuing obligation to review the applicability of its “exception status” from the Jury Service Program, and the Contractor shall immediately notify the County if the Contractor at any time either comes within the Jury Service Program’s definition of “Contractor” or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event, the Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Agreement and at its sole discretion, that the Contractor demonstrate to the County’s satisfaction that the Contractor either continues to remain outside of the Jury Service Program’s definition of “Contractor” and/or that the Contractor continues to qualify for an exception to the Program.
4. Contractor’s violation of this sub-paragraph of the Agreement may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Agreement and/or bar the Contractor from the award of future County agreements for a period of time consistent with the seriousness of the breach.

8.9 CONFLICT OF INTEREST

- 8.9.1 No County employee whose position with the County enables such employee to influence the award of this Agreement or any competing Agreement, and no spouse or

economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.

8.9.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this sub-paragraph shall be a material breach of this Agreement.

8.10 CONSIDERATION OF HIRING COUNTYEMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST

Should the Contractor require additional or replacement personnel after the effective date of this Agreement to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Agreement.

8.11 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

8.11.1 Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor.

8.11.2 In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

8.12 CONTRACTOR RESPONSIBILITY AND DEBARMENT

8.12.1 Responsible Contractor

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the agreement. It is the County's policy to conduct business only with responsible Contractors.

8.12.2 Chapter 2.202 of the CountyCode

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires

information concerning the performance of the Contractor on this or other agreements which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Agreement, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County agreements for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing Agreements the Contractor may have with the County.

8.12.3 Non-responsible Contractor

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of an agreement with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform an agreement with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

8.12.4 Contractor Hearing Board

1. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the

basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.
3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of

debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to

reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.12.5 Subcontractors of Contractor

These terms shall also apply to Subcontractors of County Contractors.

8.13 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all CountyContractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

8.14 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

8.14.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Agreement are in compliance with their court-ordered child, family and

spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

8.14.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Agreement to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

8.15 COUNTY'S QUALITY ASSURANCE PLAN

The County or its agent will evaluate the Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Agreement terms and conditions and performance standards. Contractor deficiencies which the County determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Agreement or impose other penalties as specified

in this Agreement.

8.16 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

8.16.1 The Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds caused by the Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after the Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

8.16.2 If the Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by the Contractor by cash payment upon demand.

8.17 EMPLOYMENT ELIGIBILITY VERIFICATION

8.17.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Agreement meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

8.17.2 The Contractor shall indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement.

8.18 FACSIMILE REPRESENTATIONS

The County and the Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to sub-paragraph 8.1, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments to this Agreement, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

8.19 FAIR LABOR STANDARDS

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

8.20 FORCE MAJEURE

Intentionally Omitted

8.21 GOVERNING LAW, JURISDICTION, AND VENUE

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

8.22 INDEPENDENT CONTRACTOR STATUS

8.22.1 This Agreement is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

8.22.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement all compensation and benefits. The County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.

8.22.3 The Contractor understands and agrees that all persons performing work pursuant to this Agreement are, for

purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Agreement.

8.22.4 The Contractor shall adhere to the provisions stated in subparagraph 7.4 - Confidentiality.

8.23 INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the Contractor's acts and/or omissions arising from and/or relating to this Agreement.

8.24 GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE

Without limiting Contractor's indemnification of County, and in the performance of this Agreement and until all of its obligations pursuant to this Agreement have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Sections 8.24 and 8.25 of this Agreement. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to this Agreement. The County in no way

warrants that the Required Insurance is sufficient to protect the Contractor for liabilities which may arise from or relate to this Agreement.

8.24.1 Evidence of Coverage and Notice to County

- Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been given Insured status under the Contractor's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under this Agreement.
- Renewal Certificates shall be provided to County not less than 10 days prior to Contractor's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Contractor and/or Sub-Contractor insurance policies at any time.
- Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Agreement by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Contractor identified as the contracting party in this Agreement. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions

exceeding fifty thousand (\$50,000.00) dollars, and list any County required endorsement forms.

- Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Contractor, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall be sent to:

County of Los Angeles
Department of Health Services
Contracts and Grants Division
313 North Figueroa Street, 6th Floor-East
Los Angeles, CA 90012

And

County of Los Angeles
Department of Health Services
Emergency Medical Services Agency
10100 Pioneer Boulevard
Santa Fe Springs, CA 90670
Attention: Administrative Services

Contractor also shall promptly report to County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Contractor. Contractor also shall promptly notify County of any third party claim or suit filed against Contractor or any of its Sub-Contractors which arises from or relates to this

Agreement, and could result in the filing of a claim or lawsuit against Contractor and/or County.

8.24.2 Additional Insured Status and Scope of Coverage

The County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively County and its Agents) shall be provided additional insured status under Contractor's General Liability policy with respect to liability arising out of Contractor's ongoing and completed operations performed on behalf of the County. County and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of the Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the County. The full policy limits and scope of protection also shall apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

8.24.3 Cancellation of Insurance

Except in the case of cancellation for non-payment of premium, Contractor's insurance policies shall provide, and Certificates shall specify, that County shall receive not less than thirty (30) days advance written notice by mail of any cancellation of the Required Insurance. Ten (10) days prior notice may be given to County in event of cancellation for non-payment of premium.

8.24.4 Failure to Maintain Insurance

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Agreement, upon which County immediately may withhold payments due to Contractor, and/or suspend or terminate this Agreement. County, at its sole discretion, may obtain damages from Contractor resulting from said breach.

8.24.5 Insurer Financial Ratings

Coverage shall be placed with insurers acceptable to the County with A.M. Best ratings of not less than A:VII unless otherwise approved by County.

8.24.6 Contractor's Insurance Shall Be Primary

Contractor's insurance policies, with respect to any claims related to this Agreement, shall be primary with respect to all other sources of coverage available to Contractor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Contractor coverage.

8.24.7 Waivers of Subrogation

To the fullest extent permitted by law, the Contractor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this Agreement. The Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

8.24.8 Sub-Contractor Insurance Coverage Requirements

Contractor shall include all Sub-Contractors as insureds under Contractor's own policies, or shall provide County with each Sub-Contractor's separate evidence of insurance coverage. Contractor shall be responsible for verifying each Sub-Contractor complies with the Required Insurance provisions herein, and shall require that each Sub-Contractor name the County and Contractor as additional insureds on the Sub-Contractor's General Liability policy. Contractor shall obtain County's prior review and approval of any Sub-Contractor request for modification of the Required Insurance.

8.24.9 Deductibles and Self-Insured Retentions (SIRs)

Contractor's policies shall not obligate the County to pay any portion of any Contractor deductible or SIR. The County retains the right to require Contractor to reduce or eliminate policy deductibles and SIRs as respects the County, or to provide a bond guaranteeing Contractor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

8.24.10 Claims Made Coverage

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of this Agreement. Contractor understands and agrees it shall maintain such coverage for a period of

not less than three (3) years following Agreement expiration, termination or cancellation.

8.24.11 Application of Excess Liability Coverage

Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as the underlying primary policies, to satisfy the Required Insurance provisions.

8.24.12 Separation of Insureds

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

8.24.13 Alternative Risk Financing Programs

The County reserves the right to review, and then approve, Contractor use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The County and its Agents shall be designated as an Additional Covered Party under any approved program.

8.24.14 County Review and Approval of Insurance Requirements

The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

8.25 INSURANCE COVERAGE

- 8.25.1 **Commercial General Liability** insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County and its Agents as an additional insured, with limits of not less than:

General Aggregate: \$2 million

Products/Completed Operations Aggregate: \$1 million

Personal and Advertising Injury: \$1 million

Each Occurrence: \$1 million

- 8.25.2 **Automobile Liability** insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Contractor's use of autos pursuant to this Agreement, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

- 8.25.3 **Workers Compensation and Employers' Liability** insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than One Million Dollars (\$1,000,000) per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate

Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

8.25.4 Unique Insurance Coverage

- **Professional Liability/Errors and Omissions**

Insurance covering Contractor's liability arising from or related to this Agreement, with limits of not less than \$1 million per claim and Two Million Dollars (\$2,000,000) aggregate. Further, Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Agreement's expiration, termination or cancellation.

8.25.5 Performance Security Requirements

- a. Contractor shall furnish to County within ten (10) Days after Contractor's execution of this Agreement, and in all events prior to the Effective Date, performance security effective for the Term, and in an amount of at least eighty percent (80%) of the County's Maximum Obligation as specified in this Agreement Sub Paragraph 5.1. Such performance security shall be in form and substance satisfactory to County. Contractor shall maintain said bond in full force and effect until released by County upon determination by County Project Manager that Contractor has fully

performed all of its obligations under this Agreement.

This bond shall be maintained by the Contractor in full force and effect during the development of the Automated Emergency Notification System for the County and for a period of one year after acceptance of the Work by the County.

Notwithstanding the forgoing, any modification, extension, and/or termination of this Agreement shall in no way release Contractor or any of its sureties from any of their obligations under such performance security;

- b. Such security may be provided by one of the following forms and conditioned upon faithful performance and satisfactory completion of Services by Contractor. In addition, the surety shall be signed, irrevocable, undrawable, posted, secured, escrowed and deposited with County's DHS before the start of any performance on this Agreement;

Performance Bond: A faithful performance bond in an amount equal to Four Hundred Four Thousand Dollars (\$404,000) executed by corporate surety licensed to transact business in the State of California. Such bond shall contain an express waiver of notice of any Change Notices and Amendments to this Agreement; or

Certificate of Deposit (CD) or Letter of Credit (LOC): A CD or an irrevocable LOC payable to County upon demand in an amount not less than Four Hundred Four Thousand Dollars (\$404,000). Such CD or LOC shall comply with minimum criteria and standards

established by County and be maintained throughout the Term of the Agreement.

8.26 LIQUIDATED DAMAGES

8.26.1 If, in the judgment of the Department Head, or his/her designee, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the Department Head, or his/her designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the Contractor's invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to the Contractor from the County, will be forwarded to the Contractor by the Department Head, or his/her designee, in a written notice describing the reasons for said action.

8.26.2 If the Department Head, or his/her designee, determines that there are deficiencies in the performance of this Agreement that the Department Head, or his/her designee, deems are correctable by the Contractor over a certain time span, the Department Head, or his/her designee, will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the Department Head, or his/her designee, may:

(a) Deduct from the Contractor's payment, pro rata, those applicable portions of the Monthly Agreement Sum; and/or

(b) Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is OneHundred Dollars (\$100) per day, or as specified in the Performance Requirements Summary (PRS) Chart, as defined in Appendix C, Technical Exhibit 2, hereunder, and that the Contractor shall be liable to the County for liquidated damages in said amount. Said amount shall be deducted from the County's payment to the Contractor; and/or

(c) Upon giving five (5) days notice to the Contractor for failure to correct the deficiencies, the County may correct any and all deficiencies and the total costs incurred by the County for completion of the work by an alternate source, whether it be County forces or separate private contractor, will be deducted and forfeited from the payment to the Contractor from the County, as determined by the County.

8.26.3 The action noted in sub-paragraph 8.26.2 shall not be construed as a penalty, but as adjustment of payment to the Contractor to recover the County cost due to the failure of the Contractor to complete or comply with the provisions of this Agreement.

8.26.4 This sub-paragraph shall not, in any manner, restrict or limit the County's right to damages for any breach of this

Agreement provided by law or as specified in the PRS or sub-paragraph 8.26.2, and shall not, in any manner, restrict or limit the County's right to terminate this Agreement as agreed to herein.

8.27 MOST FAVORED PUBLIC ENTITY

If the Contractor's prices decline, or should the Contractor at any time during the term of this Agreement provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Agreement, then such lower prices shall be immediately extended to the County.

8.28 NONDISCRIMINATION AND AFFIRMATIVE ACTION

8.28.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

8.28.2 The Contractor shall certify to, and comply with, the provisions of Exhibit D - Contractor's EEO Certification.

8.28.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion,

ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- 8.28.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.
- 8.28.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.
- 8.28.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this sub-paragraph 8.28 when so requested by the County.
- 8.28.7 If the County finds that any provisions of this sub-paragraph 8.28 have been violated, such violation shall

constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Agreement.

8.28.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Agreement, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.

8.29 NON EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Agreement shall not restrict DHS from acquiring similar, equal or like goods and/or services from other entities or sources.

8.30 NOTICE OF DELAYS

Except as otherwise provided under this Agreement, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that

party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

8.31 NOTICE OF DISPUTES

The Contractor shall bring to the attention of the County's Project Manager and/or County's Project Director any dispute between the County and the Contractor regarding the performance of services as stated in this Agreement. If the County's Project Manager or County's Project Director is not able to resolve the dispute, the (Department Head), or designee shall resolve it.

8.32 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

The Contractor shall notify its employees, and shall require each Subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

8.33 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

The Contractor shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit I of this Agreement and is also available on the Internet at www.babysafela.org for printing purposes.

8.34 NOTICES

All notices or demands required or permitted to be given or made under this Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in Exhibits E - County's Administration and F - Contractor's Administration. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The (Department Head, or his/her designee) shall have the authority to issue all notices or demands required or permitted by the County under this Agreement.

8.35 PROHIBITION AGAINST INDUCEMENT OR PERSUASION

Notwithstanding the above, the Contractor and the County agree that, during the term of this Agreement and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

8.36 PUBLIC RECORDS ACT

8.36.1 Any documents submitted by the Contractor; all information obtained in connection with the County's right to audit and inspect the Contractor's documents, books, and accounting records pursuant to sub-paragraph 8.38 - Record Retention and Inspection/Audit Settlement of this Agreement; as well as those documents which were required to be submitted in response to the Invitation for Bids (IFB) used in the solicitation process for this Agreement, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public

Records Act) and which are marked “trade secret”, “confidential”, or “proprietary”. The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

- 8.36.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked “trade secret”, “confidential”, or “proprietary”, the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney’s fees, in action or liability arising under the Public Records Act.

8.37 PUBLICITY

- 8.37.1 The Contractor shall not disclose any details in connection with this Agreement to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor’s need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Agreement within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of this Agreement, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the

name of the County without the prior written consent of the County's Project Director. The County shall not unreasonably withhold written consent.

8.37.2 The Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Agreement with the County of Los Angeles, provided that the requirements of this subparagraph 8.37 shall apply.

8.38 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Agreement. The Contractor agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Agreement. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Agreement and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other

costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.38.1 In the event that an audit of the Contractor is conducted specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

8.38.2 Failure on the part of the Contractor to comply with any of the provisions of this sub-paragraph 8.38 shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement.

8.38.3 If, at any time during the term of this Agreement or within five (5) years after the expiration or termination of this Agreement, representatives of the County conduct an audit of the Contractor regarding the work performed under this Agreement, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference shall be either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under this Agreement or otherwise. If such audit finds that the County's dollar liability for such work is more than the

payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Agreement exceed the funds appropriated by the County for the purpose of this Agreement.

8.39 RECYCLED BOND PAPER

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Agreement.

8.40 SUBCONTRACTING

8.40.1 The requirements of this Agreement may not be subcontracted by the Contractor **without the advance approval of the County**. Any attempt by the Contractor to subcontract without the prior consent of the County may be deemed a material breach of this Agreement.

8.40.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the County's request:

- A description of the work to be performed by the Subcontractor;
- A draft copy of the proposed subcontract; and
- Other pertinent information and/or certifications requested by the County.

- 8.40.3 The Contractor shall indemnify and hold the County harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were the Contractor employees.
- 8.40.4 The Contractor shall remain fully responsible for all performances required of it under this Agreement, including those that the Contractor has determined to subcontract, notwithstanding the County's approval of the Contractor's proposed subcontract.
- 8.40.5 The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Agreement. The Contractor is responsible to notify its Subcontractors of this County right.
- 8.40.6 The Director, or his/her designee, is authorized to act for and on behalf of the County with respect to approval of any subcontract and Subcontractor employees. After approval of the subcontract by the County, Contractor shall forward a fully executed subcontract to the County for their files.
- 8.40.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County's consent to subcontract.
- 8.40.8 The Contractor shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by the County from each approved

Subcontractor. The Contractor shall ensure delivery of all such documents to:

County of Los Angeles
Department of Health Services
Contracts and Grants Division
313 Figueroa Street, 6th Floor-East
Los Angeles, California 90017

And

County of Los Angeles
Department of Health Services
Emergency Medical Services Agency
10100 Pioneer Boulevard, Suite 200
Santa Fe Springs, California, 90670

before any Subcontractor employee may perform any work hereunder.

8.41 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

Failure of the Contractor to maintain compliance with the requirements set forth in sub-paragraph 8.14 - Contractor's Warranty of Adherence to County's Child Support Compliance Program, shall constitute default under this Agreement. Without limiting the rights and remedies available to the County under any other provision of this Agreement, failure of the Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the County may terminate this Agreement pursuant to sub-paragraph 8.43 - Termination for Default and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

8.42 TERMINATION FOR CONVENIENCE

8.42.1 This Agreement may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.

8.42.2 After receipt of a notice of termination and except as otherwise directed by the County, the Contractor shall:

- Stop work under this Agreement on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.42.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Agreement shall be maintained by the Contractor in accordance with sub-paragraph 8.38, Record Retention AND Inspection/Audit Settlement.

8.43 TERMINATION FOR DEFAULT

8.43.1 The County may, by written notice to the Contractor, terminate the whole or any part of this Agreement, if, in the judgment of County's Project Director:

- Contractor has materially breached this Agreement; or

- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Agreement; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Agreement, or of any obligations of this Agreement and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

8.43.2 In the event that the County terminates this Agreement in whole or in part as provided in sub-paragraph 8.43.1, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. The Contractor shall continue the performance of this Agreement to the extent not terminated under the provisions of this sub-paragraph.

8.43.3 Except with respect to defaults of any Subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in sub-paragraph 8.43.2 if its failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State

governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this sub-paragraph 8.43.3, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier.

8.43.4 If, after the County has given notice of termination under the provisions of this sub-paragraph 8.43, it is determined by the County that the Contractor was not in default under the provisions of this sub-paragraph 8.43, or that the default was excusable under the provisions of sub-paragraph 8.43.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to sub-paragraph 8.42 - Termination for Convenience.

8.43.5 The rights and remedies of the County provided in this sub-paragraph 8.43 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

8.44 TERMINATION FOR IMPROPER CONSIDERATION

8.44.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment, or extension of this Agreement or the making of any determinations with respect to the Contractor's performance pursuant to this Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

8.44.2 The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

8.44.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

8.45 TERMINATION FOR INSOLVENCY

8.45.1 The County may terminate this Agreement forthwith in the event of the occurrence of any of the following:

- Insolvency of the Contractor. The Contractor shall be

deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;

- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Contractor; or
- The execution by the Contractor of a general assignment for the benefit of creditors.

8.45.2 The rights and remedies of the County provided in this subparagraph 8.45 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

8.46 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Agreement, upon which the County may in its sole discretion, immediately terminate or suspend this Agreement.

8.47 TERMINATION FOR NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this Agreement, the County shall not be obligated for the Contractor's performance hereunder or by any provision of this Agreement during any of the County's future fiscal years unless and until the County's Board of Supervisors appropriates funds for this Agreement in the County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The County shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

8.48 VALIDITY

If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

8.49 WAIVER

No waiver by the County of any breach of any provision of this Agreement shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this subparagraph 8.49 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

8.50 WARRANTY AGAINST CONTINGENT FEES

8.50.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any Agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

8.50.2 For breach of this warranty, the County shall have the right to terminate this Agreement and, at its sole discretion, deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.51 WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Contractor acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through agreement are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this agreement will maintain compliance, with Los Angeles County Code Chapter 2.206.

8.52 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 8.51 "Warranty of Compliance with County's Defaulted Property Tax Reduction Program" shall constitute default under this agreement. Without limiting the rights and remedies available to County under any other provision of this agreement, failure of Contractor to cure such default within 10 days of notice shall be grounds upon which County may terminate this agreement and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206.

8.53 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS (45 C.F.R. Part 76)

8.53.1 Pursuant to federal law, the County is prohibited from contracting with parties that are suspended, debarred, ineligible, or excluded or whose principals are suspended, debarred or excluded from securing federally funded contracts. At the time of proposal submission, Proposer must submit the Certification Regarding Debarment, Suspension, Ineligibility & Voluntary Exclusion – Lower Tiered Covered Transactions, Exhibit 16 in Appendix D, attesting that neither it, as an organization, nor any of its owners, officers, partners, directors, or other principals is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Should the proposal identify prospective subcontractors, or should Proposer intend to use subcontractors in the provision of services under any subsequent agreement, Proposer must submit a

certification, completed by each subcontractor, attesting that neither the subcontractor, as an organization, nor any of its owners, officers, partners, directors, or other principals is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts.

8.53.2 Failure to provide the required certification may eliminate the proposal from consideration.

8.53.3 In the event that Proposer and/or its subcontractor(s) is or are unable to provide the required certification, Proposer instead shall provide a written explanation concerning its and/or its subcontractor's inability to provide the certification. Proposer's written explanation shall describe the specific circumstances concerning the inability to certify. It further shall identify any owner, officer, partner, director, or other principal of the Proposer and/or subcontractor who is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Finally, the written explanation shall provide that person's or those persons' job description(s) and function(s) as they relate to the agreement which is being solicited by this Request for Proposals.

8.53.4 The written explanation shall be examined by the County to determine, in its full discretion, whether further consideration of the proposal is appropriate under the federal law.

8.54 CONTRACTOR'S EXCLUSION FROM PARTICIPATING IN A FEDERALLY FUNDED PROGRAM

8.54.1 Contractor hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, and that Contractor will notify Director within ten (10) calendar days in writing of: (1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary action taken by any agency of the Federal government against Contractor or one or more staff members barring it or the staff members from participating in a Federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

8.54.2 Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any Federal exclusion of Contractor or its staff members from such participation in a Federally funded health care program.

8.54.3 Failure by Contractor to meet the requirements of this subparagraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

8.55 FEDERAL ACCESS TO RECORDS

If, and to the extent that, Section 1861(v)(1)(I) of the Social Security Act (42 U.S.C. Section 1395x(v)(1)(I)) is applicable, Contractor agrees that for a period of five (5) years following the furnishing of services under this Agreement, Contractor shall maintain and make available, upon written request, to the Secretary of the United

States Department of Health and Human Services or the Controller General of the United States, or to any of their authorize representatives, the Agreements, books, documents and records of Contractor which are necessary to verify the nature and extent of the costs of services provided hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through any subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents and records of the subcontractor.

8.56 RESTRICTIONS ON LOBBYING

If any Federal funds are to be used to pay for Contractor's services under this Agreement, Contractor shall fully comply with all certification and disclosure requirements prescribed by Section 319 of Public Law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully complies with all such certification and disclosure requirements.

8.57 INTELLECTUAL PROPERTY INDEMNIFICATION

Indemnification Obligation. Contractor shall indemnify, hold harmless and defend County Indemnitees from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees and

attorney's fees, as such are incurred, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure or misappropriation, arising from or related to the software or other tasks, deliverables, goods, services or other work licensed or acquired hereunder or the operation and utilization of Contractor's work under this Agreement. Any legal defense pursuant to Contractor's indemnification obligations under this Section 8.57 (Intellectual Property Indemnification) shall be conducted by Contractor and performed by counsel selected by Contractor and approved in writing by County (which approval shall not be unreasonably withheld). Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as required by law or this Agreement, County shall be entitled to reimbursement for all such costs and expenses.

Procedures. County shall notify Contractor, in writing, as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure. Upon such notice, Contractor shall, at no cost to County, as remedial measures, either: (i) procure the right, by license or otherwise, for County to continue to use the software or other tasks, deliverables, goods, services or other work licensed or acquired hereunder, or part(s) or component(s) thereof, to the same extent of County's license or ownership rights under this Agreement; or (ii) to the extent Contractor is unable to procure such right, replace or modify the software or other tasks, deliverables, goods, services or other work licensed or acquired hereunder, or part(s) or component(s) thereof, with another software or product of services, or part(s) or component(s) thereof, of at least equivalent

quality and performance capabilities, in County's determination, until it is determined by County that the software or other tasks, deliverables, goods, services or other work licensed or acquired hereunder and all parts and components become non-infringing, non-misappropriating and non-disclosing.

Remedial Acts. If Contractor fails to complete the remedial measures above within ten (10) days of the date of the written notice from County or County has not approved in writing (such approval not to be unreasonably withheld) Contractor's plan of completing such remediation, then, County shall have the right to take such remedial acts as County determines to be reasonable to mitigate any impairment of its use of the software or damages or other costs or expenses. Contractor shall indemnify County for all amounts paid and all direct and indirect costs associated with County's Remedial Acts. Failure by Contractor to pay such amounts within ten (10) days of invoice by County shall, in addition to, and cumulative to all other remedies, entitle County to immediately withhold payments due to Contractor under this Agreement up to the total of the amounts paid in connection with County's Remedial Acts.

9.0 UNIQUE TERMS AND CONDITIONS

9.1 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) AND THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT (HITECH)

Contractor expressly acknowledges and agrees that the provision of services under this Agreement does not require or permit access by Contractor or any of its employees to any patient medical records. Accordingly, Contractor shall instruct its employees that

they are not to pursue or gain access to patient medical records for any reason whatsoever.

Notwithstanding the foregoing, the parties acknowledge that, in the course of the provision of services hereunder, Contractor or its employees may have inadvertent access to patient medical records. Contractor understands and agrees that neither it nor its employees are to take advantage of such access for any purpose whatsoever. Additionally, in the event of such inadvertent access, Contractor and its employees shall maintain the confidentiality of any information obtained and shall notify hospital supervisory personnel that such access has been gained immediately or upon the first reasonable opportunity to do so.

In the event of any access, whether inadvertent or intentional, Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees) arising from or connected with Contractor's or its employees' access to patient medical records. Contractor agrees to provide appropriate training to its employees regarding their obligations in this regard.

9.2 LOCAL SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE PROGRAM

9.2.1 This Agreement is subject to the provisions of the County's ordinance entitled Local Small Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.

- 9.2.2 The Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise.
- 9.2.3 The Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.
- 9.2.4 If the Contractor has obtained certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this agreement to which it would not otherwise have been entitled, shall:
1. Pay to the County any difference between the agreement amount and what the County's costs would have been if the agreement had been properly awarded;
 2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent of the amount of the agreement; and

3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the state and OAAC of this information prior to responding to a solicitation or accepting an agreement award.

9.3 PATENT, COPYRIGHT AND TRADE SECRET INDEMNIFICATION

- 9.3.1 The Contractor shall indemnify, hold harmless and defend County from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of the Contractor's work under this Agreement. County shall inform the Contractor as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure, and shall support the Contractor's defense and settlement thereof.
- 9.3.2 In the event any equipment, part thereof, or software product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that County's continued use of such item is formally restrained, enjoined, or subjected to a risk of damages, the Contractor, at its sole expense, and

providing that County's continued use of the system is not materially impeded, shall either:

- Procure for County all rights to continued use of the questioned equipment, part, or software product; or
- Replace the questioned equipment, part, or software product with a non-questioned item; or
- Modify the questioned equipment, part, or software so that it is free of claims.

9.3.3 The Contractor shall have no liability if the alleged infringement or unauthorized disclosure is based upon a use of the questioned product, either alone or in combination with other items not supplied by the Contractor, in a manner for which the questioned product was not designed nor intended.

9.4 CONTRACTOR'S CHARITABLE ACTIVITIES COMPLIANCE

The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. By requiring Contractors to complete the Charitable Contributions Certification, Exhibit J, the County seeks to ensure that all County contractors which receive or raise charitable contributions comply with California law in order to protect the County and its taxpayers. A Contractor which receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either agreement termination or debarment proceedings or both. (County Code Chapter 2.202)

9.5 TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM

9.5.1 This Agreement is subject to the provisions of the County's ordinance entitled Transitional Job Opportunities Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.

9.5.2 Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Transitional Job Opportunity vendor.

9.5.3 Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Transitional Job Opportunity vendor.

9.5.4 If Contractor has obtained County certification as a Transitional Job Opportunity vendor by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this agreement to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the agreement amount and what the County's costs would

have been if the agreement had been properly awarded;

2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent (10%) of the amount of the agreement; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the certifying department of this information prior to responding to a solicitation or accepting an agreement award.

9.6 TURNOVER/TRANSITION (EXIT) PLAN

Contractor shall develop and provide the Turnover/Transition (Exit) Plan for the AENS along with the accompanying documentation according to the format and type of media County requests.

At a minimum, Contractor's responsibilities shall include:

- a. Developing a detailed AENS Turnover/Transition (Exit) Plan, including up to six data downloads, to a mutually-agreed-upon format;
- b. Identifying the resource requirements to transfer the AENS and Data Center support operations for the AENS;

- c. Identifying and scheduling review team participants
- d. Conducting a review of the plan to verify its completeness;
- e. Maintaining and updating the Turnover/Transition (Exit) Plan on an ongoing basis based on changes to the AENS; and
- f. Keeping an updated Turnover/Transition (Exit) Plan in a shared repository throughout the Term of this Agreement.

Contractor shall provide a Turnover/Transition (Exit) Plan within thirty (30) days of Agreement execution. The Turnover/Transition (Exit) Plan shall be updated annually by Contractor and provided to County within thirty (30) Days of County's request.

The Turnover/Transition (Exit) Plan shall include the following:

- a. Resources, commitments and other labor requirements;
- b. A transfer schedule, including any dependencies in transferring the AENS to County or its designee, which ensures that no loss or reduction in Service Requirement occurs;
- c. The procedures/processes to support and complete any required data conversion, as determined by County;
- d. All other activities determined essential by Contractor for the successful transfer of the AENS; and

- e. Other information and/or supporting documentation, required by County, related to volumes, file sizes, and trends.
- f. The procedures/processes that will be used to eliminate data.

Contractor shall submit the final Turnover/Transition (Exit) plan within ninety (90) days of Agreement execution.

Contractor shall assist County or its designee to conduct a successful transfer based on the approved final Turnover/Transition (Exit) Plan.

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IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be executed by its Director of Health Services and Contractor has caused this Agreement to be executed in its behalf by its duly authorized officers, the day, month, and year first above written.

COUNTY OF LOS ANGELES

By _____
Mitchell H. Katz, M.D.
Director

CONTRACTOR

Contractor

Signature

Print Name

Title

APPROVED AS TO FORM:

Andrea Sheridan Ordin
County Counsel

By _____
Principal Deputy County Counsel